Conference on Disarmament

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Pakistan

Working paper

Elements of a Fissile Material Treaty (FMT)

General

1. Pakistan's principled views on a Fissile Material Treaty (FMT) are based on the following considerations.

2. **First**, and foremost, the treaty should provide equal and undiminished security for all states. As recognized by the final document of the First Special Session of the UN General Assembly devoted to nuclear disarmament, SSOD-I of 1978, in the adoption of disarmament measures, the right of each state to security should be kept in mind and at each stage of the disarmament process the objective should be undiminished security at the lowest possible level of armaments and military forces. A treaty which overlooks or circumscribes the security of any state would not work and cannot be negotiated.

3. **Second**, the treaty should make a genuine contribution towards the goal of nuclear disarmament and not merely be a non-proliferation instrument.

4. **Third**, in addition to a ban on future production, the treaty must also cover the past production or existing stockpiles of fissile materials, in order to address the asymmetries in fissile material holdings at the regional and global levels.

5. **Fourth**, the treaty should neither discriminate between the different nuclear weapon states, nor between the nuclear weapon and non-nuclear weapon states. All states parties should assume equal obligations without any preferential treatment for any category of states.

6. **Fifth**, in order to be effective, the treaty should be free of any loopholes by encompassing all types and sources of fissile materials that can be used in nuclear weapons.

7. **Sixth**, in order to be credible, the treaty should provide a robust verification mechanism entrusted to a representative and independent treaty body.

8. **Seventh**, the treaty should promote both regional and global stability and enhance confidence among states parties.

9. **Eighth**, the treaty should not affect the inalienable right of all states to use nuclear energy for peaceful purposes. However, it should include effective verification measures to

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safeguard against any misuse or diversion of peaceful use technology and nuclear materials to prohibited purposes.

10. **Lastly**, the treaty should be negotiated in the Conference on Disarmament which is the single multilateral disarmament negotiating forum. The Conference on Disarmament strictly operates under the consensus rule to allow each member state to safeguard its vital security interests. A treaty that is negotiated outside this body will lack legitimacy and ownership. Same is the case for any pseudo progress through United Nations General Assembly-led divisive processes that do not involve all stakeholders, such as a Group of Governmental Experts (GGE) or any variant thereof.

11. Pakistan's general positions stated above or mentioned below under different substantive elements of FMT are primarily intended to enrich informal discussions in Conference on Disarmament, without prejudice to Pakistan's national position during negotiations of a future FMT.

Scope (issue of existing stocks)

12. The most ardent supporters of FMCT are those states that have stockpiled thousands of tons of weapons grade fissile material, far in excess of their needs, and already declared unilateral moratoria on further production. For these states, an FMCT that conveniently excludes the existing stockpiles of fissile material would be cost-free. Of course, it is not surprising that these states also find strident support from their allies that benefit from the extended deterrence of their nuclear umbrella.

13. For Pakistan, on the other hand, the question of stockpiles is a direct national security concern. The asymmetry of fissile materials stockpiles in Pakistan's region is being compounded by the discriminatory waivers and exceptions, and bilateral nuclear cooperation agreements. It leaves Pakistan with no room for flexibility or ambiguity, and forces its hand to oppose the commencement of FMCT negotiations based on the Shannon mandate.

14. Several other states besides Pakistan also believe that a treaty which effectively ignores stocks would be meaningless for nuclear disarmament and not be able to stop vertical proliferation and modernization of nuclear weapons.

15. During the informal discussions held on this issue in June 2014, Pakistan had presented a detailed proposal for dealing with the existing stocks and the future production of different categories of fissile material. Pakistan has further refined and fine-tuned this proposal along the following lines.

16. To answer the first question raised in the Coordinator's work plan, i.e. **how to deal with fissile material produced after entry into force of the treaty, in particular for civilian use and non-proscribed military use**, Pakistan is of the view that such material should only be produced under the strict verification coverage of the treaty from "cradle to grave", to ensure their non-diversion to prohibited purposes such as nuclear weapons manufacturing or kept in reserve for the same purpose.

17. On the second question, i.e. **how to deal with existing stocks in particular fissile material produced: (i) for nuclear weapons; (ii) in excess to nuclear weapon requirements; (iii) for non-proscribed military use; and (iv) for civilian use**, Pakistan's views are elaborated below:

18. As regards **Existing stocks of fissile material produced for nuclear weapons:** this material can be further divided into three sub-categories:

19. **First**, fissile material present in deployed nuclear warheads or warhead components in storage. Pakistan proposes that this weaponized fissile material may not be covered under the FMT.

20. **Second**, fissile material that has not been weaponized as yet. This would include fissile material that has been set aside either for new warheads or for the replacement and refurbishment of existing warheads, or designated as a strategic reserve for future use in unforeseen circumstances. This would also include fissile material – HEU, Plutonium and other types defined in the treaty – that has been historically produced in any unsafeguarded facility, military or otherwise, and has not been designated as civilian or for non-proscribed military use. Such non-weaponized fissile material should be reduced through mutual and balanced reductions on a regional or global basis in a manner that addresses the existing asymmetries keeping in mind the need for equal security for all.

21. The **third** sub-category of material assigned for nuclear weapons includes the fissile material released from retired warheads and those in the dismantlement queue, including such material that is already in waste disposal sites. This type of material should also be brought under the treaty's verification coverage in accordance with the principle of irreversibility to preclude its re-weaponization. Its transfer to verified civil and non-proscribed military use would be permitted.

22. As for the **Existing stocks of fissile material produced in excess to nuclear weapon requirements; for non-proscribed military use; and for civilian use.** Such fissile material stocks, for instance for naval propulsion, should also be brought under the strict verification coverage of the treaty to ensure their non-diversion to prohibited purposes such as nuclear weapons manufacturing.

23. The purpose is to ensure that fissile material stocks in any form or category are not used for the development of nuclear weapons. Only such a treaty will genuinely promote nuclear disarmament, arrest vertical proliferation, and contribute to regional and global security and stability.

24. There is another category of fissile material stocks that have so far not been taken into consideration, and these are fissile material stocks that are not accounted for. All nuclear weapon states should, therefore, be responsible for providing a full verifiable accounting of such stocks as part of a future FMT.

25. For ease of reference, a table summarizing Pakistan's proposal for dealing with past and future production of fissile material is attached with this working paper.

Definitions

26. Regarding the definition of **fissile material**, Pakistan is of the view that any fissile material that can be used for the manufacture of nuclear weapons should be covered in the definition. Besides enriched uranium and separated plutonium, it should also include neptunium and americium, as well as any other material that can be used for the manufacture of nuclear weapons, for instance reactor-grade plutonium. The exact isotopic composition can be determined during negotiations. Since the important thing is to close all possible loopholes, Pakistan prefers the IAEA safeguards concept of "special fissionable material", as defined in Article-20 of the IAEA's Statue.

27. The production and the use of fissile material, as defined under the treaty, should be banned for nuclear weapons purposes, and should only be allowed for civilian peaceful purposes or for non-proscribed military activities under strict verification.

28. As for defining **fissile material production**, any known process for the production of fissile material, as defined under the treaty, must be covered. This should not be limited

to enrichment and reprocessing only. For instance, the production of Uranium-233 bred from thorium-232 inside reactors must be covered.

29. Similarly, the definition of **fissile material production facilities** should not be limited to enrichment and reprocessing plants only. Any facility that is capable of producing fissile material, as defined under the treaty, must be appropriately identified and covered under the non-proliferation regime.

30. Such as approach would not only cover all loopholes but would also be non-discriminatory with equal obligations for all states.

Verification

31. Three options are under consideration, namely: a **focused approach** concentrating on enrichment and reprocessing facilities, and downstream facilities processing or handling fissile material; a **comprehensive approach** covering the entire nuclear fuel cycle; and a **hybrid approach** concentrating on critical elements of the nuclear fuel cycle.

32. Pakistan is of the view that in order to be effective and credible, the treaty should provide for a robust verification mechanism overseen by an independent treaty body that is capable of detecting any non-compliance in a timely manner, without any discrimination between States.

33. Pakistan favours the so-called "comprehensive approach" whereby all nuclear material and facilities covering the entire fuel cycle, and not just the limited production facilities like enrichment and reprocessing plants, would be subject to verification.

34. There is neither any insurmountable technical barrier nor any crippling financial requirement that would prevent the member States of the Conference on Disarmament from pursuing the comprehensive approach. We should not be distracted or misled by self-serving arguments relying on technical and financial pretexts. Choosing between the focused approach, the comprehensive approach or the hybrid approach is purely a political decision and should be seen as such.

35. In the section on Scope, we have already outlined Pakistan's preference for covering all past production i.e. existing stocks of fissile material, alongside the post-entry-into-force production of fissile material for permissible purposes, under the verification coverage of the treaty to ensure non-diversion for proscribed purposes.

36. Depending on the provisions agreed in the treaty, the treaty's verification regime should also be capable of verifying the reduction of fissile material stocks as agreed between the states parties on a regional or global basis.

37. The verification system should provide timely detection of any diversion or non-compliance. It should also provide credible assurance regarding the absence of any undeclared or clandestine activity involving the production of fissile material for prohibited purposes, including stocks that are unaccounted for.

38. The shut-down and dismantlement of facilities such as reprocessing and enrichment plants as well as dedicated plutonium production reactors should also be verified in cases where such facilities have not been converted for civilian or non-proscribed use.

39. The verification obligations under the treaty would mostly apply to the NPT and the non-NPT nuclear weapon states. For the NPT non-nuclear weapon states, the IAEA Comprehensive Safeguards Agreement and the Additional Protocol already provide the desired level of assurance.

40. The verification tasks under the treaty should be performed by an independent and dedicated treaty body – an FMTO – without excluding the use of IAEA resources. The responsibility to verify and oversee the treaty's implementation cannot be assigned exclusively to the IAEA. Besides the problems arising from differences between the membership of the IAEA and the states parties to the treaty, the Agency's decision making organs and procedures are not inclusive enough to effectively perform the oversight function. The FMTO would need an executive body that includes all the major stakeholders on a permanent basis.

Legal and institutional arrangements

41. **Who is best placed to carry out required verification**. The verification tasks under the treaty should be performed by an independent and dedicated treaty body – an FMTO – without excluding the use of IAEA resources. The responsibility to verify and oversee the treaty's implementation cannot be assigned exclusively to the IAEA. Besides the problems arising from differences between the membership of the IAEA and the states parties to the treaty, the IAEA's decision making organs and procedures are not inclusive enough to effectively perform the oversight function.

42. **Governance and decision making mechanism**. The treaty should establish an FMTO with an appropriately staffed Secretariat, a Conference of States Parties meeting annually, and an executive council that includes all the major stakeholders on a permanent basis, meeting regularly and taking all decisions by consensus. Combined, this should be the governance and decision making mechanism of the treaty.

43. **How to deal with cases of non-compliance**. The FMTO should first and foremost try to deal with cases of non-compliance itself through consultations and clarifications as well as technical means. Those cases that cannot be suitably resolved may be referred to the United Nations General Assembly in a non-discriminatory manner. The referral to the United Nations Security Council would not be a feasible option as the Security Council would be unable to deal effectively with cases of non-compliance by a permanent veto-wielding member, which in the case of FMT would form the majority of fissile material producers.

44. **Amendment provisions to allow inter alia for technological change**. For a treaty that is negotiated and adopted under the consensus rule, its amendments should also only be agreed by consensus among all states parties.

45. **Requirements for entry into force of the treaty**. For the treaty to enter into force, the minimum threshold should require ratification by all states that produce fissile materials as defined in the treaty.

46. **Duration of the treaty**. The treaty must be of a limited duration, with the possibility of a renewal by consensus. This would allow for a serious review before the expiry of the initial duration with respect to its implementation, effectiveness, contribution to nuclear disarmament, etc.

47. **Withdrawal provisions**. Like all treaties impacting on national security interests, states parties must be able to withdraw from the FMT, following an appropriate notice on the grounds of their national security. However, any withdrawing state would continue to remain accountable for any violations or non-compliance of the treaty while it was still a party to it.

Conclusion

48. Pakistan remains committed to continue contributing constructively to the Conference on Disarmament's agenda. Pakistan is ready to join negotiations in the Conference on Disarmament on Nuclear Disarmament, Negative Security Assurances and the Prevention of an Arms Race in Outer Space, as well as on any other issue that does not impinge on our security. Pakistan is also ready to join efforts for finding a new compromise to arrive at an acceptable basis, or mandate, to commence negotiations on an FMT in the Conference on Disarmament. This new mandate should respond to the legitimate call by the vast majority of members of the Conference on Disarmament to negotiate a treaty that genuinely advances nuclear disarmament and contributes to regional and international stability and security. The Shannon mandate does not fulfil these conditions.

49. And if there is no consensus on the commencement of negotiations on any item on the Conference on Disarmament's agenda, the Conference should opt for the next best alternative of holding substantive discussions in the Conference on Disarmament. As demonstrated by the informal discussions held under the schedule of activities, discussions in the Conference on Disarmament are extremely useful in understanding the various perspectives and topical concerns on all agenda items and for bouncing off new ideas. An inclusive and participatory approach in the form of discussions in the Conference on Disarmament can make valuable contributions to advancing the various agenda items and setting the ground for subsequent negotiations when consensus is possible on their commencement.

50. It needs to be realised that progress on FMCT and the other Conference on Disarmament related issues can neither be achieved by changing the format or forum, nor by imposing solutions that exclude the views of major stakeholders. Real progress can only be made by exercising genuine political will to address the security concerns of those states that are opposing the start of negotiations on a treaty that effectively ignores the issue of stocks.

Annex

Dealing with the past and future production of fissile material

No	*Category of FM*	*Description*	*Coverage under FMT*	
			Existing Stocks	*Future Production*
1.	Assigned for nuclear weapons			
1.1	Weaponized fissile material	Present in deployed warheads, or warhead components in storage	Untouched. To be addressed under the negotiations on a Nuclear Weapons Convention	Production prohibited
1.2	Non-weaponized fissile material	Set aside for weapons or as strategic reserve, including fissile material produced from any unsafeguarded facility, and that has not been designated as civilian or for non-proscribed military use	Mutual & balanced reductions on a regional or global basis	Production prohibited
1.3	Material from retired warheads or those in the dismantlement queue, including such material already in waste disposal sites	Under unilateral or bilateral reduction arrangements	Placed under verification to ensure irreversibility and non-diversion	Production prohibited
2.	Not assigned for nuclear weapons			
2.1	Material in excess to nuclear weapons	Voluntarily declared to be in excess of weapon needs	Placed under verification to ensure non-diversion & exclusive use for non-proscribed purposes	Production prohibited
2.2	Material for non-proscribed military use	Naval propulsion etc.	Placed under verification to ensure non-diversion & exclusive use for non-proscribed purposes	Production allowed under verification to ensure non-diversion & exclusive use for non-proscribed purposes
2.3	Material for civilian use	Peaceful uses including power and non-power applications		